

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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: ECF CASE  
: 07-cv-06728 (DC)  
  
IN RE GPC BIOTECH AG SECURITIES :  
LITIGATION : **NOTICE OF MOTION TO**  
: **DISMISS PLAINTIFFS'**  
: **CONSOLIDATED**  
: **CLASS ACTION COMPLAINT**  
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**PLEASE TAKE NOTICE** that, pursuant to the Private Securities Litigation Reform Act of 1995 and Federal Rule of Civil Procedure 12(b)(6), and upon the Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiffs' Consolidated Class Action Complaint and the Affidavit of Bernard J. Garbutt III, Defendants GPC Biotech AG, Bernd R. Seizinger, Mirko Scherer, Elmar Maier, and Sebastian Meier-Ewert hereby move this Court before the Honorable Denny Chin, U.S.D.J., for an order dismissing the Consolidated Class Action Complaint for failure to state a claim upon which relief can be granted.

Dated: New York, New York  
May 14, 2008

**MORGAN, LEWIS & BOCKIUS LLP**

By: 

Bernard J. Garbutt III (1970)  
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Bernd R. Seizinger, Mirko Scherer, Elmar  
Maier and Sebastian Meier-Ewert*

TO:

All Counsel of Record Via ECF or U.S. Mail

**CERTIFICATE OF SERVICE**

I, Namita E. Mani, an attorney duly admitted to practice before this Court and the courts of the State of New York, hereby certify that on May 14, 2008, I caused one copy each of the following documents to be served upon all counsel of record via ECF or U.S. Mail in accordance with the Local Rules of the Southern District of New York: (1) Defendants' Notice of Motion to Dismiss the Plaintiffs' Consolidated Class Action Complaint; (2) Defendants' Memorandum of Law In Support of Defendants' Motion to Dismiss the Plaintiffs' Consolidated Class Action Complaint; and (3) the affidavit of Bernard J. Garbutt III, sworn to May 14, 2008.

Dated: May 14, 2008  
New York, New York

  
Bernard J. Garbutt III